

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Promoting Telehealth in Rural America	)	WC Docket No. 17-310
	)	

**SUPPLEMENTAL REPLY COMMENTS OF ALASKA COMMUNICATIONS**

Leonard A. Steinberg  
Senior Vice President & General Counsel  
ALASKA COMMUNICATIONS SYSTEMS GROUP, INC.  
600 Telephone Avenue  
Anchorage, Alaska 99503

Karen Brinkmann  
KAREN BRINKMANN PLLC  
1800 M Street, N.W., Suite 800-N  
Washington, D.C. 20036  
(202) 365-0325  
[KB@KarenBrinkmann.com](mailto:KB@KarenBrinkmann.com)

Richard R. Cameron  
CAMERON LAW & POLICY LLC  
2550 M Street, N.W., Suite 319  
Washington, D.C. 20037  
(202) 230-4962  
[Richard@CameronLawPolicy.com](mailto:Richard@CameronLawPolicy.com)

*Counsel for Alaska Communications*

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## EXECUTIVE SUMMARY

In its current state, the Commission’s rural healthcare (“RHC”) program is not achieving the mandates of Section 254(h)(1)(A) of the Communications Act. Alaska Communications filed supplemental comments drawing on its experience serving rural HCPs in Alaska while not receiving the support it expected, and trying to understand the demands of USAC and the FCC for “rural rates” that would qualify for funding under the RHC Telecom Program. Alaska Communications has direct knowledge of the costs and difficulties of complying with the current, outdated RHC rules. Alaska Communications has first-hand experience of providing service to HCPs serving very remote areas that have been meaningfully harmed by the recent uncertainty of funding under the Telecom Program – some even have dropped out of the program due to the uncertainty and delays in obtaining support.

All commenting parties urge the Commission to abandon the old rules governing the rural rate for the Telecom Program, and promptly act to reform the rules so support becomes predictable again, and the administrative processes of USAC and the FCC are more transparent. Most commenters strongly support a market-based approach to pricing for telehealth services.

In this brief reply, Alaska Communications opposes certain suggestions in the supplemental comments that are inappropriate for Alaska. For example, urban and rural rates for the type of services purchased by rural HCPs in Alaska are not equalized, so support for the urban-rural difference under the Telecom Program remains necessary. In addition, Alaska’s rural HCPs are entitled to the telecommunications services they need at rates reasonably comparable to the urban rate for similar services – *not* the urban rate *plus* some portion of the rural rate.

Above all, however, the comments are unanimous in requesting meaningful reform to the RHC rules without delay. Alaska Communications appreciates the Bureau’s efforts to refresh

the record and incorporate the industry's experiences of the last twelve months as it weighs the critical issues raised in this rulemaking.

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Alaska Communications<sup>1</sup> hereby offers these reply comments in response to the Wireline Competition Bureau request for supplemental comments<sup>2</sup> concerning the above-captioned rulemaking.<sup>3</sup> Alaska Communications urges the Commission to resolve the matters presented in this proceeding with all deliberate speed, and update the Rural Health Care (“RHC”) program rules by June 2019, so the revised rules will be effective (at the very latest) in time to govern the 2020 funding year.

**TELECOM PROGRAM RATES SHOULD BE GOVERNED BY A MARKET-BASED APPROACH**

Most commenters responding to the Public Notice strongly support a market-based approach to pricing for telehealth services. GCI explains that the types of services purchased by healthcare providers (“HCPs”) to serve rural areas are not tariffed, but negotiated on a case-by-case basis, and found only in private contracts subject to non-disclosure agreements.<sup>4</sup> SHLB and TeleQuality agree with GCI that it is the competitive bidding process, not *ex ante* rural rate

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<sup>1</sup> In these supplemental comments, “Alaska Communications” represents the following wholly-owned subsidiaries of Alaska Communications Systems Group, Inc.: ACS of Alaska, LLC, ACS of Anchorage, LLC, ACS of Fairbanks, LLC, ACS of the Northland, LLC, and Alaska Communications Internet, LLC, all of which participate in the provision of services to rural healthcare providers in Alaska.

<sup>2</sup> Public Notice, *Wireline Competition Bureau Seeks Additional Comment on Determining Urban and Rural Rates in the Rural Healthcare Program*, WC Docket No. 17-310, DA 18-1226 (WCB rel. Dec. 4, 2018) (the “Public Notice”).

<sup>3</sup> See *Promoting Telehealth in Rural America*, WC Docket No. 17-310, Notice of Proposed Rulemaking and Order, FCC 17-164 (rel. Dec. 18, 2017) (the “RHC Notice and Order”).

<sup>4</sup> Additional Comments of GCI Communications Corp. (“GCI”) in WC Docket No. 17-310 (filed Jan. 30, 2019) at 11-12, 14.

regulation, that is best suited to keeping reimbursable rates as low as economically practicable, while ensuring that support is sufficient and predictable as required by the statute.<sup>5</sup> Even AT&T, which has no love for the Telecom Program, asserts that “the Commission will discourage participation from legitimate service providers” if its requirements for justifying the rural rate are “overly regulatory.”<sup>6</sup> GCI similarly observes that the Commission itself warned against forcing rates to artificially low levels as a “disincentive to invest” in rural areas.<sup>7</sup> This is of particular concern in rural Alaska, which is the most lacking of all the states in broadband availability, and thus greatest in need of investment.<sup>8</sup>

**RATES FOR THE TYPES OF ADVANCED SERVICES PURCHASED BY HCPs**  
**ARE NOT EQUALIZED IN URBAN AND RURAL AREAS OF ALASKA**

AT&T argues that, outside Alaska, rural rates should no longer be reimbursable under the Telecom Program because they have become equalized throughout the rest of the nation. AT&T argues that to continue subsidizing services provided to rural HCPs under the Telecom Program is to give HCPs a price *advantage* over commercial customers, who pay the same rate in rural and urban areas. Without commenting on rate or market conditions prevailing in the market to serve rural healthcare providers in the Lower 48 states, Alaska Communications can confirm that AT&T’s exception for the state of Alaska is an essential one.<sup>9</sup> For the record, Alaska Communications highlights this key distinction.

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<sup>5</sup> See Additional Comments of GCI at 16-18; Comments of TeleQuality Communications, LLC in WC Docket No. 17-310 (filed Jan. 30, 2019) at 4-5; Comments of the Schools, Health & Libraries Broadband (SHLB) Coalition in WC Docket No. 17-310 (filed Jan. 30, 2019) at 5.

<sup>6</sup> Comments of AT&T in WC Docket No. 17-310 (filed Jan. 30, 2019) at 7-8.

<sup>7</sup> Additional Comments of GCI at 13.

<sup>8</sup> E.g., 2018 Broadband Deployment Report, GN Docket No. 17-199, FCC 18-10 (rel. Feb. 2, 2018) at 65, Table T-2 (access to fixed broadband limited to 41.8 percent of population in rural Alaska).

<sup>9</sup> Comments of AT&T at 2 & n. 7 (“AT&T has no objection to the Commission creating Alaska-specific RHC programs, just as it has done with its high-cost programs, in recognition

Whatever service providers may charge in other states for high-capacity business data services (“BDS”) such as those purchased by HCPs, the rural rates for BDS in Alaska *do* vary among different geographic locations. Prices can be higher where the middle-mile connection between the rural HCP and the nearest urban area requires undersea fiber optic cable transport or point-to-point wireless technology; prices can be lower where middle-mile connections use existing terrestrial fiber. Some rural parts of Alaska are served only by satellite and have no terrestrial broadband middle-mile connections at all. To reach many rural HCPs, Alaska Communications must purchase wholesale services from other carriers, and the cost of those wholesale inputs must necessarily be reflected in its retail rates. Delivering telecommunications services to many HCP premises often requires transport over the facilities of two different service providers, and sometimes even three different service providers; it requires a mix of local circuits, microwave and satellite middle-mile transport services, and terrestrial and undersea fiber optic facilities operated by different service providers, to provide end-to-end connectivity from the HCP to urban services or data centers. In short, geography and distance both still play very important roles in the cost and logistics of delivering telehealth services in rural Alaska, regardless of how circumstances may differ in other parts of the nation. The Telecom Program is essential in Alaska to ensure that HCPs have access to the telecommunications services they need to deliver health care in rural areas at rates that are reasonably comparable to the urban rates for similar services, and service providers that fulfill these needs are made whole for difference between the urban and rural rates.<sup>10</sup>

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that service providers in Alaska have unique challenges to providing affordable communications services in rural areas”).

<sup>10</sup> See 47 U.S.C. §254(h)(1)(A).

**HEALTHCARE PROVIDERS ARE ENTITLED TO PURCHASE SERVICES NECESSARY FOR THE  
PROVISION OF HEALTHCARE SERVICES IN RURAL AREAS AT THE URBAN RATE, AND SERVICE  
PROVIDERS ARE ENTITLED TO RECEIVE THE URBAN-RURAL DIFFERENCE**

Under Section 254(h)(1)(A) of the Communications Act, HCPs are entitled to access to the telecommunications services they need to serve rural areas, at rates that are reasonably comparable to the rates charged for similar services in urban areas of the same state, and service providers are entitled to the urban-rural rate difference to the extent they fulfill these needs.<sup>11</sup> Some commenters suggest that this mandate would be satisfied even if the Commission were to reduce the HCPs' reimbursement by five or ten percent, in order to make HCPs more price sensitive.<sup>12</sup> However, as Utah Education Network observes, from the outset, the Commission's RHC program has been guided by the principle that rural HCPs should not pay more than their urban counterparts for the telecommunications services they need to deliver quality healthcare services to rural residents.<sup>13</sup> Particularly in Alaska, where the urban-rural rate difference for services provided to HCPs remains significant, reducing Telecom Program support by a fixed percentage could yield a cost to the rural HCP that is many multiples of the applicable urban rate. Alaska Communications does not believe that such a rule would satisfy the reasonable comparability requirement of the statute.

Moreover, there is no evidence in the record that "price may not be a factor in their selection at all" when HCPs are selecting rural telecommunications service providers but responsible only for paying the urban rate, as suggested by SHLB.<sup>14</sup> In fact, the Commission's

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<sup>11</sup> See 47 U.S.C. §254(h)(1)(A); 47 C.F.R. §54.609.

<sup>12</sup> Comments of SHLB at 7; Comments of TeleQuality at 8. SHLB favors reducing the reimbursable portion of the urban-rural difference by five percent, and TeleQuality suggests that the FCC consider a ten percent reduction. *Id.*

<sup>13</sup> Utah Education and Telehealth Network Response to WC Docket Bo. 17-310 (filed Jan. 30, 2019) at 1.

<sup>14</sup> Comments of SHLB at 7.



rules require each rural HCP to certify that it is selecting the “most cost-effective method of providing the requested service or services” from among the competitive bids it has received.<sup>15</sup> But as SHLB itself observes, HCPs “stand to lose the most” if rates approved for Telecom Program services fail to fully compensate the service providers.<sup>16</sup>

Even if it were permissible from a statutory perspective, TeleQuality acknowledges that increasing the prices paid by rural HCPs “could also be a slippery slope for the program,” driving additional HCPs out of the Telecom Program in the near term.<sup>17</sup> Moreover, taking that risk would not be reasonable in light of the fact that market developments are driving down the prices of services purchased by rural HCPs on a per-megabit basis.<sup>18</sup>

Alaska Communications has proposed a number of practical, easily administered reforms to the rural and urban rate rules which will help ensure that the RHC Telecom Program does not “overpay” for the urban-rural difference. In the end, however, the Commission should continue to rely on market-based solutions, as it has in general with BDS and other advanced services, to ensure that pricing is reasonable and affordable, and services continue to advance in response to customer demand.

### **CONCLUSION**

The Commission should rely on market forces to the greatest extent possible, and act now to reestablish firm footing for the Telecom Program, with sufficient support, minimal intervention in the competitive market, and transparent and predictable procedures. As set forth in Alaska Communications’ Supplemental Comments, the Commission should order USAC to

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<sup>15</sup> 47 C.F.R. §54.603(b)(4).

<sup>16</sup> Comments of SHLB at 3.

<sup>17</sup> Comments of TeleQuality at 8.

<sup>18</sup> Comments of TeleQuality at 8 (“we see greater broadband deployment in more under/unserved areas than ever before...Increased availability is resulting in cost reductions for service providers and end users”).

establish uniform urban rate floors and rural rate ceilings in each state, based on market prices, differentiated by service type and bandwidth, and stop second-guessing competitively bid prices for advanced telecommunications services that are necessary for rural tele-health delivery. The Commission should adopt these rules changes to become effective in 2019, so as to apply to the applications for Telecom Program support in Funding Year 2020.

Respectfully submitted,



Leonard A. Steinberg  
Senior Vice President & General Counsel  
ALASKA COMMUNICATIONS SYSTEMS  
GROUP, INC.  
600 Telephone Avenue  
Anchorage, Alaska 99503

Karen Brinkmann  
KAREN BRINKMANN PLLC  
1800 M Street, N.W., Suite 800-N  
Washington, D.C. 20036  
(202) 365-0325  
[KB@KarenBrinkmann.com](mailto:KB@KarenBrinkmann.com)

Richard R. Cameron  
CAMERON LAW & POLICY LLC  
2550 M Street, N.W., Suite 319  
Washington, D.C. 20037  
(202) 230-4962  
[Richard@CameronLawPolicy.com](mailto:Richard@CameronLawPolicy.com)

*Counsel for Alaska Communications*

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